

## The Dividing up of Competences

When Belgium proclaimed independence in 1830, it was organised as a unitary State with a decentralisation of power to the provinces and communes.

The public at this time was thus confronted by national, provincial and communal authorities.

The constitutional revisions of 1970, 1980, 1988, 1993, 2001 and 2012-2014 progressively transformed Belgium into a federal State, which now consists of Communities and Regions.

This means that the public is currently confronted with five levels of power:

- The federal level
- The community level
- The regional level
- The provincial level
- The communal level

For absolute completeness, the European level should also be added because it will undoubtedly have an increasing influence over the years to come.

Each level of authority has a certain set of competences, as stipulated in international treaties, in the Constitution, and in special and ordinary laws.

How are these competences divided up ?

### Supranational level

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#### » The European level

In order to realise a common policy within the European Union, the European level intervenes in various areas such as currency, trade, the free flow of goods, services and capital, agriculture and fishing, transport, social policy and environment policy, community networks, etc.

### Parallel levels of authority

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#### » The federal level

The successive reforms of the State have reduced the number of matters for which the federal State has powers.

Following the Sixth Reform of the State, the federal level still has major powers for: the labour market, defence, the central bank, maintenance of law and order, international relations and development cooperation, pensions, social security (except family allowances), nuclear energy, protection of savings, broad areas of the judicial system and home affairs, ...

#### » The community level

The Communities have authority for matters including person-related issues:

- Education, excepting the following matters : compulsory school attendance, conditions for granting qualifications and the pension system for teachers;
- Cultural matters such as art, cultural heritage, museums, audiovisual media, support for the written press and artistic training;
- Matters relating to individuals, such as several aspects of health policy (provision of health care in and outside health care institutions, with exceptions, organisation of front-line health care provision, and support to front-line health professionals, health education ...), aspects of policy concerning aid to individuals (family policy, social welfare, with exceptions; reception and integration policy;...);
- Law centres;
- Family allowances;
- Use of languages in administrative matters, education, social relations between employer and personnel, as well as official and legal documents that govern the life of the company;
- International relations limited to the community competences.

## » The regional level

The Regions have authority for territory-related issues: regional development, the environment, agriculture, housing policy, water policy, regional energy policy, regional economy, trade in weapons, employment (the placement of unemployed people), transport and road networks, ports, public works, subordinate levels, international relations limited to regional competences.

## » The division of powers between parallel levels is not a simple matter

The legislator considers the federal State, the Communities and Regions to be equivalent levels of authority. In order to avoid conflicts of authority, they have been exclusively allocated. This means that for a well defined competence or an aspect of such competence, a set level has authority to the exclusion of all others. Immigration policy is an illustration of this situation: the reception and integration of immigrants comes under the Community authority, access to the territory, abode and establishment come under the federal State authority, and housing of immigrants comes under the Regions authority.

## » And what about the competences that have not been allocated?

The remaining competences currently come under the federal authority, which means that the federal authority has all the competences that have not been allocated to the Communities and Regions. This principle was unaffected by the Sixth Reform of the State.

When the legislator has determined in a special law the exclusive competences of the federal level, the residual competences will be entrusted to the Communities and Regions (art. 35 of the Constitution).

## » The division of competences: a continuous progress

Since the federalisation of Belgium, the transfer of federal competences to the Communities and Regions took place gradually. It is beyond any doubt that this division of competences does always go hand in hand with many negotiations. The aim is to constitute homogeneous sets of competences. This entails a lot of negotiations as the options of French-speaking and Flemish parties are often different.

In 2002, the regions for instance obtained agriculture and the communal and provincial legislation. In 2003, import, export and transit of weapons and ammunition came under the Regions authority. Since 2004, the Communities and Regions have authority for the areas of development cooperation directly related to Community and regional competences. The Sixth Reform of the State made a further modification to the distribution of powers. This concerns health care and assistance to individuals, justice, family allowances, the labour market, telecommunications, film licensing, energy and environment policy, housing, agricultural, economic and industrial policy, the provinces, animal welfare, mobility and road safety, compulsory purchase

procedures and acquisition committees, the civil service, bicultural subjects of regional interest and security in Brussels.

## Levels of subordinate authority

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### » The provincial level

The province may intervene in all areas which seem to be in its interest insofar that it respects the authority of the communes and that the matter concerned does not come under the authority of a higher level (the federal State, Communities and Regions). Especially, the regions decide which matters come under the provincial authority.

The following are some of the competences allocated to the provinces: provincial education, the network of provincial roads, “disaster” plans, treatment of household refuse, etc.

### » The communal level

The commune acts in all matters which are of a communal interest, insofar that it respects the authorities of the province and those allocated to a higher level (federal State, Communities and Regions). Especially, the regions decide, to a large extent, which matters have to be exercised by the communes.

The following are some of the communal powers: public centre for social services, the local police, communal roads, communal finance, sports infrastructure.